

**Notice of Allowability**

Application No.

09/787,196

Applicant(s)

HIRAO ET AL.

Examiner

Michael C. Henry

Art Unit

1623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/02/05.
2. ☒ The allowed claim(s) is/are 1,8,11,12. These claims are renumbered 1-4, respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                     |                                                                                       |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                                    | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____                                               |

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***REASONS FOR ALLOWANCE***

Applicant's amendment and remarks, see pages 7-12, filed 9/2/05, with respect to claims 1, 8, 11 and 12 have been fully considered and are persuasive. The rejections of claims 1, 8, 11 and 12 based upon Ishikawa et al. as applied under U.S.C. 102 (b) and 102(a) have been withdrawn. In addition, it should be noted that Ishikawa et al. was not published until November 10-12, 1999, and therefore is not properly a 102(b) reference (see applicant's provided reference). Nor is it 102(a) art. It should be noted that the rejection under 35 U.S.C. 102(b) was made by the examiner, since the examiner believed that the Ishikawa et al. reference was published before the Japan 11-201450/1999 (07/15/1999) document and because applicant's claim to foreign priority over Japan 11-201450/1999 (07/15/1999) was not perfected, since an English Translation of the said foreign priority document was not filed. However, Ishikawa et al. was published after Japan 11-201450/1999 (07/15/1999) document (i.e., November 10-12, 1999) and applicant's claim to foreign priority over Japan 11-201450/1999 (07/15/1999) has been perfected, since applicant has now provided Ishikawa et al.'s reference with the publication date and an English Translation of the Japan 11-201450/1999 (07/15/1999) document. Furthermore, since claims 1, 8, 11, and 12 benefit from the July 15, 1999 filing date of said Japanese patent application, Ishikawa et al. is not available as prior art under 102(a).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Henry whose telephone number is 571-272-0652. The examiner can normally be reached on 8:30 am to 5:00 pm; Mon-Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

MCH

September 13, 2005.

  
SAMUEL BARTS  
PRIMARY EXAMINER  
GROUP 1600